

CHARTER
THE TOWN OF TOWNSEND
New Castle County, Delaware

1996

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ARTICLE I
INCORPORATION

Section 101. Incorporation

The inhabitants of the Town of Townsend, within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity, by the corporate name of "The Town of Townsend", and by that name shall have perpetual succession, and shall have all of the powers incident to or may attach to a municipal corporation as they, through their duly elected officers and agents, may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, nor of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts.

Section 102. Boundaries

The boundaries of the Town of Townsend shall continue heretofore existing under the Charter of "The Town of Townsend" immediately prior to the enactment of this Charter.

The Commission of the Town of Townsend may at any time hereafter cause a survey and plot to be made of said Town and the said plot, when made and approved by the Commission, shall be recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware, and the same or the record thereof, or a duly certified copy of the said record shall be in evidence in all courts of law in equity in this state.

Section 103. Annexation of Territory

The Town shall have the power to annex any additional territory contiguous to its present limits and lands, and extend and apply to such annexed territory all laws, ordinances and resolutions in force within the Town, so far as they may be applicable.

Additional territory contiguous to the Town may be annexed in the following manner:

a. Upon presentation of a resolution adopted by a majority of the Town Commission, the Town shall conduct a special election in accordance with a procedure set forth in 22 Del. C. Section 101, except that there shall be no weighted voting and, instead, each qualified voter and each real estate owner will be entitled to one vote each.

b. The Town is hereby authorized to adopt by ordinance such further policies and procedures as it deems necessary in order to effectuate the authority given herein.

ARTICLE II

POWERS OF THE TOWN

Section 201. Powers of the Town

201.1 General The Town shall have all the powers possible for a town to have under the Constitution and Laws of the State of Delaware as fully and completely as though they were specifically enumerated in this Charter. The Town shall have the powers to make, adopt, and establish all such ordinances, resolutions, regulations, rules and by-laws not contrary to the laws of the State of Delaware and the United States as the Town Commission may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants. The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, the State of Delaware, or the United States or any agency thereof.

201.2 Enumeration of Powers Not by way of limitation upon the scope of the powers vested in the Town Commission to exercise all powers delegated by this Charter to the Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Commission is vested by this Charter with the following powers, that is to say, the Town Commission:

201.2.1 may have and use a corporate seal which may be altered, changed, or renewed at any time.

201.2.2 may hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee simple or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to providing sites for constructing, improving, extending, altering or demolishing:

- a. public buildings;
- b. parks;
- c. streets, squares, lanes, alleys, and,
- d. sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;
- e. water systems, including but not limited to water plants, wells, lines, conduits and all appurtenances thereto;
- f. recreational facilities, including but not limited to gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle courts and all appurtenances thereto;
- g. adequate municipal services for persons and other legal entities residing wither within or beyond the corporate limits of the Town, to

- their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Commission may determine and approve;
- h. slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;
 - i. protection services for the citizens of the Town to include, but not limited to, police, fire, rescue and paramedic support.

201.2.3 may sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may acquire except as prohibited by the Constitution or Laws of the State of Delaware or as restricted by this Charter;

201.2.4 may pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any Town property (real, personal or mixed) from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States and/or the State of Delaware and/or New Castle County where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired;

201.2.5 may acquire, build erect, and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

201.2.6 may purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of abatement of nuisances, or other charge due the Town and sell the same;

201.2.7 may;

- a. ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, improve, dredge, erect, remove, repair and replace any new or present street, highway, road, alley, waterway, park, crosswalk, wharf, dock, sewer, drain, gutter, aqueduct or pipeline or portion thereof, or any new or present curb, or gutter or portion thereof, or any new or present curb, or gutter or portion thereof in the Town and the strand in or contiguous to the Town;
- b. specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done;
- c. enter into contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, highway, road, alley, sidewalk or other public thoroughfare within the Town;

201.2.8 may provide, construct, extend, maintain, manage and control bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, strand or high land within the corporate limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof;

201.2.9 may regulate and control the planting, growing, treatment and

preserving of ornamental shade trees in the streets, avenues, highways, parks and lands of the town and may authorize or prohibit the removal or destruction of said trees;

201.2.10 may fully control the drainage of all surface water within the Town, and to that end, may provide, construct, extend, maintain, manage and control a surface water drainage system for the health, sanitation, and convenience of the inhabitants of the Town;

201.2.11 may provide an adequate supply of potable water for the Town and its inhabitants and, to this end, may:

- a. acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance or distribution or sale of water;
- b. regulate and prescribe for what public or private purposes the water furnished by the Town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town;
- c. Furnish or refuse water from the Town system to places and properties outside the Town corporate limits; and
- d. contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the Town itself;

201.2.12 may:

- a. provide, construct, extend, maintain, manage and control: a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town;
- b. regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities;
- c. furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits;
- d. compel any and all properties in the Town to be connected to the sewer system of the Town; and

201.2.13 may provide for and control the lighting of the streets, highways, roads, alley, waterways, parks, strands, crosswalks, wharfs, docks, public buildings or other public places in the Town;

201.2.14 may regulate, control or prevent the use or storage of all combustible or dangerous materials and the use of candles, lamps and other lights in stores, shops, and

other places; and may regulate, suppress, remove or secure any fireplace, stove chimney, over broiler or other apparatus which may pose a danger of causing fires;

201.2.15 may;

- a. provide for the organization of a fire department and the control and government thereof;
- b. establish fire limits and do all things necessary for the prevention or extinguishment of fires; and
- c. contribute or donate funds to any volunteer fire company or companies incorporated under the Laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution or donation may be made subject to such conditions as to the use thereof as the Town Commission may deem advisable;

201.2.16 may provide for the organization of ambulance, rescue or paramedic services and the control and government thereof, may establish territories within the Town for such services; and may, at the discretion of the Town Commission, contribute or donate funds to any such service formed or incorporated under the Laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment and services for the inhabitants of the Town, provided that any such contribution or donation may be made subject to such conditions to the use thereof as the Town Commission may deem advisable;

201.2.17 may prohibit drunkenness, use or distribution of controlled substance, gaming and fraudulent devices and riots, disturbances and disorderly assemblies;

201.2.18 may adopt and enforce such ordinances regulating traffic on all streets, highways, roads, alleys and public ways within the Town as are consistent with the motor vehicle laws of the State of Delaware;

201.2.19 may regulate or prohibit the use of streets, highways, roads, alleys, parks, rights-of-way, other public places and Town-owned lands for commercial use, or activities not otherwise protected from such regulation or prohibition by the Constitution or Laws of either the United States or the State of Delaware;

201.2.20 may regulate or prohibit the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other device for discharging missiles which may cause bodily injury or injuries or harm to persons or property; and may regulate the use of bonfires, fireworks, bombs and detonating works of all kinds within the Town;

201.2.21 may provide for and preserve the health, peace, safety, cleanliness, beauty, good order and public welfare of the Town;

201.2.22 may prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

201.2.23 may direct the excavation, draining, filling, cleaning, curbing or fencing of privately owned lots, tracts, pieces or parcels of land in the Town which are deemed dangerous or unwholesome, or necessary to carry out any improvements

authorized by this Charter and may assess the cost thereof against the owner thereof;

201.2.24 may define, prevent, abate or remove nuisances, obstructions or any other conditions detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to be paid by the person or other legal entity causing or permitting same to exist;

201.2.25 may adopt ordinances providing for condemnation of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinances to be a fire hazard or otherwise unsafe, and may cause the same to be torn down or removed;

201.2.26 may adopt ordinances to establish and regulate animal pounds and restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large within the corporate limits of the Town; authorized the destruction of the same; and may regulate the keeping of dogs within the Town, and provide for registration and fees thereof;

201.2.27 may provide for the punishment of a violation of any ordinance of the Town by appropriate fine, penalty, or forfeiture;

201.2.28 may regulate and control the construction, alteration, or removal of dwellings or other structures and provide for granting permits for same;

201.2.29 may regulate and control construction activities by private individuals or companies at such times and seasons of the year and at such hour of the day as the Town Commission may determine necessary and appropriate for the public health, welfare and convenience;

201.2.30 may provide for and regulate the naming of the streets and the numbering of houses and commercial establishments within the Town corporate limits;

201.2.31 may:

- a. establish setback line for buildings and other structures to be erected;
- b. zone or district the Town and make provision for particular zones or districts with regard to construction or building materials;
- c. prohibit any construction except that for which a building permit has been issued as prescribed by the Town Commission; and
- d. exercise all powers and authorities pursuant to 22 Del. C., Chapter 3, or any future corresponding provisions of law;

201.2.32 may regulate the conduct of any business, profession or occupation within the corporate limits of the Town;

201.2.33 may license, tax, and collect fees annually for any and all municipal purposes of such various amounts as the Town Commission, from time to time, shall fix from any individual, firm, association or corporation carrying on, or practicing any business, profession or occupation within the limits of the Town;

201.2.34 may grant licenses, issue permits, and regulate any activity within the corporate limits of the Town, whether previously dedicated to or owned by the State of Delaware;

201.2.35 may impose upon new development or construction or upon first-time occupancy of new construction such "impact fees" as are reasonably calculated to

recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new construction;

201.2.36 may appropriate money to pay the debts and liabilities of the Town, or any portion thereof, from any funds available therefor; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the Town;

201.2.37 may raise revenue for the Town by the levying and collecting of taxes on real property, taxes on the transfer or sale of real property, taxes on business activities, special assessments, licensing fees and other charges for services;

201.2.38 may investigate the conduct of any officer, employee or representative of the Town, in the conduct of official duties, and for such purpose may compel the attendance of witnesses and the production of books, records, or other evidence by subpoena, and may administer oaths or affirmations;

201.2.39 may establish a pension plan or a health and welfare plan or both, for the employees of the Town under such terms and conditions as the Town Commission may deem appropriate, with the funding accomplished through an insurance company licensed by and authorized to do business in the State of Delaware, approved by the Town Commission.

ARTICLE III

COMPOSITION OF GOVERNMENT

Section 301. Composition of Government

The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided therein, shall be vested in and exercised by a five (5) member Town Commission composed of a President and four (4) other members, each of whom shall be elected by popular vote as hereinafter provided. Each Town Commissioner shall serve a term which shall be for a period of two (2) years.

ARTICLE IV

POWERS OF THE COMMISSION

Section 401. Ordinances

The Town Commissioners are hereby vested with the authority to enact, adopt, amend and repeal ordinances and adopt resolutions relating to any subject within the powers or functions of a town, or relating to the government of a town, its peace and order, its sanitation, beauty, health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix, impose, and enforce payment of fines and penalties for the violation of such ordinances or resolution, and no provision of this Section as to ordinances or resolutions on any particular subject shall be held to be restrictive whether specifically enumerated or not.

The Town Commissioners shall not have the power to exempt any individual from the application of any ordinance, regulation, resolution, or rule of the Town, except as set out in this Charter or as provided by the United States Constitution or the laws of the State of Delaware.

Every ordinance shall be introduced in writing. No ordinance, except emergency ordinances, shall be passed at the meeting at which it is introduced. Upon introduction of an ordinance, a fair summary of said ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality. Voting on any ordinance shall be by voice vote and the vote of each Town Commissioner on any ordinance shall be entered on the record. No ordinance shall be enacted, adopted, amended or repealed unless it shall have the affirmative vote of a majority of the entire Town Commission - 3 Affirmative votes of the Town Commissioners.

Section 402. File of Ordinances

It shall be the duty of the Town Commissioners at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Commissioners. The Town Commissioners shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Clerk of the Town Commissioners shall enroll the same in the journal of the Town Commissioners and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined.

Section 403. Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Town Commission may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Section 705 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain,

after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it was introduced, but the majority vote of all Town Commission members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 120th day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for the adoption of emergency ordinances.

Section 404. Power of the President

The President of the Town Commission shall enjoy the all powers afforded to Town Commissioners by virtue of this Charter, including the ability to vote on all motions, ordinances and other issues before the council. In addition, the Town President shall have the authority to sign Town contracts after approval of the town council, which will be attested to by the Town Clerk or a designated delegate of the Town Clerk.

Section 405. Police Force

The Town Commissioners may appoint a police force consisting of such person or persons as the Town Commissioners may deem wise and advisable. The Town Commissioners shall from time to time adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Commissioners and may be removed by the Town Commissioners at any time. They shall preserve peace and order and shall compel obedience within the town limits to the ordinances of the town and the laws of the State; and they shall have such other duties as the Town Commissioners shall from time to time prescribe. Each member of the police force shall be vested with all powers and authority of a constable of New Castle County within the Town limits and within one mile outside such limits, and in the case of the pursuit of an offender, his power and authority shall extend to all parts of the State of Delaware.

ARTICLE V

NOMINATIONS AND ELECTIONS

Section 501. Term of Office

The term of office for each member of the Town Commission shall be two years. The President of the Commission shall be elected from within the Commission by a majority of the members of each newly elected Commission immediately following each annual municipal

election, and shall serve in the capacity of President for one year until the next said election.

Two (2) Commissioners shall be elected on even years to fill the vacancies created by the expiration of the terms of Office of the two (2) then-outgoing Commissioners. Three (3) Commissioners shall be elected on odd years to fill the vacancies created by the expiration of the terms of Office of the three (3) then-outgoing Commissioners.

Section 502. Elections

Annual municipal elections for the Town Commission shall be held on the first Saturday in May at such time and place, within the Town, as shall be determined by the Town Commission. The Commission shall by ordinances set the hours during which the polls shall be open, which shall be no less than six hours at each polling place.

The Town Commission shall have the power to declare no election in the event that only one candidate is available for each elected position within the Town.

Section 503. Qualifications for Office

No person shall be eligible to hold office as a President or Commissioner except a person who at the time of filing as a candidate is a citizen of the United States, has attained the age of eighteen years, has maintained legal residency within the Town boundaries for a minimum of twelve (12) consecutive months immediately preceding the filing of candidacy, and has registered to run for elected office.

Section 504. Notice of Candidacy

In order to be listed on the ballot for election of Town Commissioner members, each candidate shall file a written notice of intention to seek such office with the Town Clerk at least thirty days (30) prior to the date set for the election. If the Town Commission determines that the candidate does not meet the qualifications of office, it shall reject the notice of intention to seek office and his or her name shall not appear on the ballot. In making the determination, only those members of the Town Commission who are not running for re-election shall be entitled to vote on the question.

Section 505. Voter Qualifications

Every person who shall have reached the age of eighteen years, who is a citizen of the United States, and who has resided within the Town limits for ninety (90) consecutive days immediately preceding the election and/or who has been a legal owner of property within the corporate limits of the town of Townsend for ninety (90) consecutive days immediately preceding the election shall be entitled to vote at the annual municipal elections, special elections and referenda, except as otherwise provided in this Charter.

Section 506. Voter Registration

The Town Commission shall by ordinance provide for the registration of voters and may prescribe registration and voting places. Such ordinance shall not alter the qualifications of voters as defined in this Charter nor unduly impair the right to vote in any election.

Section 507. Vacancies in Office

If any vacancy shall occur in the office of the President by death, resignation, loss of residence in the Town of Townsend, refusal to serve, or otherwise, the remaining Commissioners shall appoint a President Pro Tempore from among themselves to fill such vacancy, and shall be qualified as in the case of a new elected President and shall hold office for the remainder of the unexpired term.

If any vacancy shall occur in the office of Commissioner by death, resignation, loss of residence in the Town of Townsend, refusal to serve, or otherwise, the remaining Commissioners shall appoint an officer pro tempore, and shall be qualified as in the case of a newly elected Commissioner and shall hold office for the remainder of the unexpired term.

ARTICLE VI

PERSONNEL

Section 601. Town Clerk

The Town Clerk shall be appointed by the Town Commission. The Town Clerk shall ^{HAVE} the power to certify Town documents including, but not limited to, the Town map, ordinances, resolutions, regulations, amendments, contracts, planning documents, rules and by-laws. The Town Clerk shall have charge and custody of the Town seal. The Town Clerk shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. The Clerk shall keep a full and complete record of all the transactions in the Town of Townsend. The Clerk shall give notice of Commission meetings to its members and the public, record all the proceedings of Commission and keep a correct journal of the same in a book or books, to be provided for that purpose and also the papers relative and belonging to said Town, all of which are to be carefully preserved and delivered to the Clerk's successor in office. The Clerk's compensation shall be fixed by the Commission in accordance with Section 604 of this Charter.

Section 602. Town Attorney

The Town Attorney shall be appointed by the Town Commission. The Town Attorney shall be an officer of the Town and shall be a member of the Bar of the State of Delaware. It shall be the duty of the Town Attorney to give legal advice to the Town Commission, other officers of the Town and to all Town departments, including the police department, Town offices and agencies. He shall represent the Town in all legal proceedings and shall perform such other

legal services as may be required of said Attorney by the Town Commission, this Charter, by law or by ordinance. The Town Commission may procure such additional legal services as it may deem to be required.

Section 603. Financial Officer

The Town Financial Officer shall be appointed by the Town Commission. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the Financial Officer under the direct supervision of the Commission.

Under the supervision of the Commission, the Financial Officer shall have the authority and shall be required to:

- a. Supervise and be responsible for the disbursement of all Town monies and have control over all expenditures to assure that budget appropriations are not exceeded.
- b. Maintain a general accounting system for the Town in such form as the Commission may require, not contrary to State law.
- c. Submit at the end of each fiscal year, or at such other times as the Commission may require, a complete financial report to the Commission.
- d. Collect all taxes, special assessments, fees and other revenues of the Town, and all other revenues (including utility revenues) for whose collection the Town is responsible and receive any funds receivable by the Town. The Financial Officer shall have the power to delegate the ability to collect the aforementioned revenue sources upon a simple majority approval of the Town Commission.
- e. Assist the Town Commission in making an annual budget no later than thirty (30) days after the beginning of each fiscal year.

Section 604. Other Town Employees

The Town Commission may appoint other employees as necessary to assist with the operation and management of the Town of Townsend.

Section 605. Compensation of Employees

The compensation of all employees of the Town of Townsend shall be set by the Commission in accordance with the budget or any amendments thereto.

ARTICLE VII

FINANCIAL POWERS AND PROCEDURES

Section 701. Fiscal Year

The fiscal year of the Town of Townsend shall begin on the first day of July of each year and shall end on the last day of June of the following year. Such fiscal year shall also constitute the budget and accounting year, except as otherwise provided for herein.

Section 702. Budget

The Town Commission may deem it necessary to have a formal budget submitted to said Commission purposes of listing revenues and expenditures of the Town. It shall be submitted by the Town Commission, assisted by the financial officer no later than thirty (30) days after the beginning of each fiscal year. In the event of a lack of compromise within the Town Commission regarding the immediate annual budget, the Town Commission shall have the authority to pass enabling legislation to extend the previous year's budget until a compromise or settlement can be reached by the members of the Town Commission.

Section 703. Assessment of Taxes

The Town Commission shall use the assessment by the New Castle County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. The assessed values established by New Castle County shall be conclusive for purposes of levying Town taxes, and the Town Commission shall have no authority to hear appeals regarding same.

Section 704. Power to Raise Revenue

The Town Commission shall have the power to levy and collect taxes on real property and of ownership within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than the sum determined by applying the Townsend's tax rate to the New Castle County Assessments appearing on the Assessor's duplicate, as hereinbefore provided, in any one year clear of all delinquencies and expenses of collection, without a referendum vote as hereinafter provided. The Commissioners shall have the right to grant or refuse, and to charge fees for licenses, and other businesses of any description within the limits of the Town, to control their use of any property within the Town. The Commissioners shall also have the power to levy and collect franchise fees.

The Town Commission shall have the power to levy and collect taxes on the transfer of ownership of any real property within the limits of the Town, except that which is not taxable by virtue of any law of the State of Delaware.

The Town Commission shall have the power by ordinance to allow discounts for early payment of taxes and for property owners aged 65 or older and to impose reasonable penalties and forfeitures for tax delinquencies. Nothing in this Charter shall be interpreted as giving the Commissioners the power to exempt from taxation any property, except property owned by the Town, County of New Castle, State of Delaware, or the United States.

The Town Commission shall have the power to fix the rates for general utility services

operated by the Town and to collect and utilized revenues from such utility services for the benefit of the Town.

Section 705. Special Assessments

The Town Commission is empowered to levy a special assessment against any or all real property situated within the corporate limits of the Town, when determined by the Commission to provide a necessary public work improvement or municipal service. Such assessments shall be duly collected, the proceeds of which shall be applied for the payment of the cost of such work, improvement, or service, provided, however, that if such assessment shall apply to all properties within the Town, it shall be approved by majority vote of the Town voters in a special election. If such assessment shall apply to only a portion of property situated within the corporate limits of the Town, the assessment shall be approved by a majority of the Town voters in the affected area in a special election.

Section 706. Borrowing Powers

706.1 Short-Term Borrowing, Voter Approval not Required The Town Commission shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters and without regard to the provisions of Section 706.2 of this Charter, such principal sum or sums not exceeding in the aggregate fifty thousand dollars (\$50,000.00), for general purposes only when, in the opinion of the majority of the Town Commission, the needs of the Town require it; provided, however, that any new borrowing under this Section made after the effective date of this act shall, by their terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town Commission duly authorized by resolution of the Town Commission and signed by the President and attested by the Clerk of the Town with the Town Seal affixed. No Town Commissioner shall be liable for the payment of any such note or any other evidence of indebtedness because it is signed by such Town Commissioner, provided that such signature be authorized by resolution of the Town Commission. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. Any sum(s) of money borrowed on the full faith and credit of the Town shall be repaid from the general funds of the Town. At not time shall the amount of outstanding principal from any such borrowing or borrowings under this Section exceed the sum of fifty thousand dollars (\$50,000.00).

706.2 Long-Term Borrowing, Voter Approval Required In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Commission shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Town Commission shall elect, for the payment of principal thereof and interest due thereon.

706.2.1 Proper Municipal Purpose By way of illustration and not in limitation,

“any proper municipal purpose” includes, but is not limited to:

- a. refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;
- b. erecting, extending, enlarging, maintaining or repairing any plant, building machinery or equipment for the manufacture, supplying or distribution of water, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefor;
- c. constructing, paving, laying out, widening, extending, repairing and maintaining of curbing and gutters, including storm sewers along the same and the condemning or purchasing of lands, easements or rights-of-way which may be required therefor;
- d. constructing, laying out, widening, extending, repairing and maintaining piers, bulkheads, cross walks, embankments, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefor;
- e. defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and
- f. paying all expenses deemed necessary by the Town Commission for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond counsel.

706.2.2 Exempt from Taxation All bonds or other kinds or forms of evidence or evidences of indebtedness issued by the Town pursuant to the provisions of this Section, and the interest thereon, shall be exempt from all State, County, or Municipal taxes.

706.2.3 Limit of Aggregate Long-Term Indebtedness In no event shall the indebtedness of the Town of Townsend, authorized by this Section, at any one time exceed, in the aggregate, five percent (5%) of the appraised value of all real property within the corporate limits of the Town and subject to assessment for the purpose of levying annual taxes as provided in this Charter.

Section 707. Annual Audit

The financial books and accounts of the Town shall be audited annually.

ARTICLE VIII

GENERAL PROVISIONS

Section 801. Eminent Domain

The Town Commission may, by condemnation proceedings, take private property or may exercise the right to use private property within the corporate limits of the town for any of the purposes authorized by this Charter. The proceedings for such condemnation shall be as prescribed in 10 Del. C. Chapter 61 or any future corresponding provision of law. The right of condemnation shall not extend to property owned by the United States, the State of Delaware, the County of New Castle or any agency thereof.

Section 802. Indemnification

The Town shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Townsend itself) by reason of the fact that he or she is or was a member of the Town Commission, President or other duly elected or appointed Town official or employee of the Town of Townsend, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Town of Townsend and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary settlement, the Town Commission shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

Indemnification as provided in this section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the members of the Town Commission, President and/or employees is proper in the circumstances because he or she met the applicable standards of the conduct set forth above. Such determination shall be made:

- a. by a majority vote of a quorum of the Town Commission consisting of Commission members who are not parties to such action, suit or proceeding, or
- b. if such quorum is not obtained, by independent legal counsel in a written opinion.

Section 803. Limitation on Liability

No claim or cause of action shall arise, and no judgment, damages, penalties, costs or

other money entitlement shall be awarded or assessed against the Town of Townsend, or any board, commission or agency of the Town, or any Town public officer, employee or member of such Town instrumentalities, whether elected or appointed, and whether now or previously serving as such, in any civil suit, or before any administrative tribunal on any and all tort claims seeking recovery of damages, unless made pursuant to Subchapter II, entitled 'County and Municipal Tort Claims', consisting of Sections 4010-4013, Title 10 of the Delaware Code or its successor.

Section 804. Compendium

It shall be the duty of the Town Commission to compile and reproduce the minutes of official meetings as well as ordinances, regulations, orders, rules or other decisions adopted by Town governmental bodies. The Town shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. Copies of such documents shall be made available to private persons at a reasonable cost. At least two copies of the Charter which shall have incorporated within it all amendments enacted by the General Assembly shall be kept at the Town office. Such copies may be typed, written, photographic processed or a combination of both. The President shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available for the perusal of the Town citizens.

Section 805. Separability

If any section, sub-section, paragraph, sentence, clause or other provision of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences, clauses or other provisions of this Charter.

ARTICLE IX

TRANSITIONAL PROVISIONS

Section 901. Former Government in Force

All ordinances, resolutions, orders, rules, contracts or regulations in force in the Town of Townsend at the time when this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Commission otherwise provides by ordinance, except to the extent that any such ordinance, resolution, order, rule or regulation may be in contravention of this Charter.

Section 902. Continuance in Office

All employees of the Town of Townsend at the time this Charter goes into effect shall

continue in such employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

The President and Commission holding office on the effective date of this Charter shall continue as the President and Commission until their successors are elected and qualify pursuant to the first general election provided hereunder.

